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8 **BEFORE THE**
9 **STRUCTURAL PEST CONTROL BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke
12 Probation Against:

Case No. 2011-68

13 **RANDY J. SARMIENTO**
14 **1430 E. Lexington Ave., Space #62**
15 **El Cajon, CA 92019**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

15 **Applicator License No. RA 52189**

16 Respondent.

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18 **FINDINGS OF FACT**

19 1. On or about October 10, 2013, Complainant Susan Saylor, in her official capacity as
20 the Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer
21 Affairs, filed Petition to Revoke Probation No. 2011-68 against Randy J. Sarmiento (Respondent)
22 before the Structural Pest Control Board. (A copy of the Petition to Revoke Probation is attached
23 as Exhibit A.)

24 2. On or about June 15, 2011, the Structural Pest Control Board (Board) issued
25 Applicator License No. RA 52189 to Respondent. The Applicator License was in full force and
26 effect at all times relevant to the charges brought in Petition to Revoke Probation No. 2011-68
27 and will expire on June 15, 2014, unless renewed.

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1 3. On or about October 18, 2013, Respondent was served by Certified and First Class
2 Mail copies of the Petition to Revoke Probation No. 2011-68, Statement to Respondent, Notice of
3 Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
4 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and
5 Professions Code section 136 and California Code of Regulations, title 16, section 1911, is
6 required to be reported and maintained with the Board. Respondent's address of record was and
7 is:

8 1430 E. Lexington Ave., Space #62
9 El Cajon, CA 92019

10 4. Service of the Petition to Revoke Probation was effective as a matter of law under the
11 provisions of Government Code section 11505, subdivision (c) and/or Business & Professions
12 Code section 124.

13 5. Government Code section 11506 states, in pertinent part:

14 (c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts
16 of the accusation not expressly admitted. Failure to file a notice of defense shall
17 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
18 may nevertheless grant a hearing.

19 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
20 of the Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of
21 Petition to Revoke Probation No. 2011-68.

22 7. California Government Code section 11520 states, in pertinent part:

23 (a) If the respondent either fails to file a notice of defense or to appear at the
24 hearing, the agency may take action based upon the respondent's express admissions
25 or upon other evidence and affidavits may be used as evidence without any notice to
26 respondent.

27 8. Pursuant to its authority under Government Code section 11520, the Board finds
28 Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Petition to Revoke Probation No.

1 2011-68, finds that the charges and allegations in Petition to Revoke Probation No. 2011-68, are
2 separately and severally, found to be true and correct by clear and convincing evidence.

3 **DETERMINATION OF ISSUES**

4 1. Based on the foregoing findings of fact, Respondent Randy J. Sarmiento has
5 subjected his Applicator License No. RA 52189 to discipline.

6 2. The agency has jurisdiction to adjudicate this case by default.

7 3. The Structural Pest Control Board is authorized to revoke Respondent's Applicator
8 License based upon the following violations alleged in the Petition to Revoke Probation which
9 are supported by the Default Decision Investigatory Evidence Packet in this case.

10 4. Respondent's probation is subject to revocation because he failed to comply with
11 Probation Condition 3, which required he file quarterly reports with the Board during the period
12 of probation. Respondent failed to file quarterly reports due September 15, 2011, December 15,
13 2011, March 15, 2012, June 15, 2012, September 15, 2012, December 15, 2012, March 15, 2013,
14 June 15, 2013, and September 15, 2013.

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ORDER

IT IS SO ORDERED that Applicator License No. RA 52189, heretofore issued to Respondent Randy J. Sarmiento, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on February 9, 2014.

It is so ORDERED January 10, 2014



FOR THE STRUCTURAL PEST CONTROL
BOARD
DEPARTMENT OF CONSUMER AFFAIRS

DOJ Matter ID: SD2013705733

Attachment:
Exhibit A: Petition to Revoke Probation